

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

<b>MARVIN B. STRODE,</b>	)	
<b>MARQUITTA A. McAFEE,</b>	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil No. <b>06-228-GPM</b>
	)	
<b>CITY of VENICE, ILL., et al.,</b>	)	
	)	
Defendants.	)	

**ORDER**

**PROUD, Magistrate Judge:**

Before the court is plaintiff's Motion to Compel. (**Doc. 39**). Defendants filed a response at **Doc. 40**.

Plaintiff seeks an order compelling defendant Bradley Jones to appear for deposition. Plaintiff made several requests for dates on which to take the deposition, which were not responded to. On April 9, 2007, plaintiff served a notice to take Jones' deposition on April 19, 2007. Defendant failed to appear. In addition to an order compelling his appearance, plaintiff seeks costs and attorneys fees.

In response, defendant points out that Jones' deposition is now scheduled for May 6, 2007. Defendant argues that the court should not award costs and fees because defendant informed plaintiff last October that he needed one month's notice to schedule the deposition because of Jones' employment situation with the police department in Hayti, Missouri.

The court appreciates the fact that defendant's current employment limits his availability. However, defendant must understand that he is required to appear for deposition, and that he

cannot unilaterally control the discovery schedule.

In view of the fact that defendant's attorney did inform plaintiff's counsel in advance that Jones would not appear on April 19, 2007, the court will not impose sanctions at this time.

However, any future failure to cooperate in discovery will not be excused.

Upon consideration and for good cause shown, plaintiff's Motion to Compel (**Doc. 39**) is **GRANTED in part and DENIED in part**.

Defendant Bradley Jones shall appear for deposition as scheduled on May 6, 2007. The request for costs and attorneys fee is denied.

**IT IS SO ORDERED.**

**DATE: May 3, 2007.**

s/ Clifford J. Proud  
**CLIFFORD J. PROUD**  
**UNITED STATES MAGISTRATE JUDGE**